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11 **UNITED STATES DISTRICT COURT**
12 **NORTHERN DISTRICT OF CALIFORNIA**
13 **SAN JOSE DIVISION**

14 ARIEL ABITTAN,
15 PLAINTIFF,
16 v.
17 LILY CHAO ET AL,
18 DEFENDANTS,
19 and
20 EIAN LABS INC.,
21 NOMINAL DEFENDANT.

Case No.: 5:20-cv-09340-NC

**MERONEY DECLARATION IN
SUPPORT OF MOTION FOR
EXTENSION OF TIME**

Magistrate Judge:
Nathanael M. Cousins

I, Millicent Meroney Lundburg¹ a member of the Bar of the California and counsel for Plaintiff in this civil action, declare as follows under penalty of perjury pursuant to 28 U.S.C. § 1746:

1. On September 27, 2021, the firm in which I am a partner, Culhane Meadows PLLC (“Culhane Meadows”), was engaged by Defendants to represent them in this matter. The recent engagement is one of the reasons for requesting this extension of time.
2. On September 28, 2021, during a meet and confer for a then upcoming case management conference, the continuance of which this Court Ordered today. Plaintiff’s counsel stated that it was their belief that Temujin Cayman’s time to respond to the Complaint had expired before my law firm, Culhane Meadows, was retained. Plaintiff’s counsel also stated that if Culhane Meadows challenged service then he would file a Rule 11 motion.
3. On September 29, 2021, citing their recent engagement and counsel’s belief that Temujin Cayman was in default, Culhane Meadows asked Plaintiff’s counsel for thirty (30) days to respond to the Complaint. Meroney Decl. ¶ __ Plaintiff’s counsel refused to grant Defendants the requested extension and instead offered only two weeks of additional time *and on the condition that Defendants waive service*, a central issue in this case, as explained above. *Id.*
4. Later in the day yesterday, after denying our request for an extension of time, Plaintiff sought an extension of time to respond to the complaint in *Temujin Labs Inc. v. Ariel Abimytan, et al.* 20 CV 372622 currently pending in the Superior Court of the State of California, Santa Clara County, where the same counsel represents Mr. Abittan as a defendant, and we represent plaintiff Temujin Labs Inc. We granted Plaintiff’s request out of professional courtesy without any qualification. In response, we made a second request for Plaintiff to provide the same professional

¹ My maiden name was Millicent Sims Meroney and it was my name in 1990 at the time of my admittance. Following marriage, my name changed to Millicent Meroney Lundburg. I will file the name change with the State Bar of California.

courtesy we gave him s and grant our extension without any qualification.

5. On September 29, 2021, Plaintiff again declined to grant the extension of time unless we waived service on behalf of our clients.

6. Absent this Court granting an extension of time, our clients would be unduly prejudiced and suffer substantial harm in that they could face a default, or we will be prevented from considering and potentially asserting defenses our client might possess.

7. Defendants make this motion in good faith and not for undue delay.

8. A review of the docket and filings in this matter shows that prior to Culhane Meadows being engaged, through stipulation, defendant Temujin Cayman's time to respond to the Complaint has been extended four times. Defendants Lily Chao and Damien Ding's time to respond to the Complaint has been extended by stipulation once before. Meroney Decl. ¶ 8.

9. Since the Court ordered that service of the Complaint against all the Defendants was insufficient, this is the first request for an extension of time to respond to the Complaint that Defendants have sought.

10. The requested time modification would not impact the schedule for this case where no party has filed an Answer and Plaintiff has a pending motion for alternative service upon Defendants. Further the initial Case Management Conference is not until November 17, 2021, which is after the proposed extended time to respond to the Complaint.

I declare under penalty of perjury that the foregoing is true and correct.

DATED: September 30, 2021

By: /s/ Millicent S. Meroney Lundburg

Millicent S. Meroney Lundburg

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